



Sen. Don Harmon

Filed: 3/15/2010

09600SB0459sam001

LRB096 06500 HLH 38988 a

1 AMENDMENT TO SENATE BILL 459

2 AMENDMENT NO. _____. Amend Senate Bill 459 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Income Tax Act is amended by
5 adding Section 502.1 as follows:

6 (35 ILCS 5/502.1 new)

7 Sec. 502.1. Use tax. Beginning with taxable years ending on
8 or after December 31, 2010, the Department shall print on its
9 standard individual income tax form a provision indicating that
10 if the taxpayer wishes to pay his or her use tax liability, he
11 or she may check a box on the return so indicating and attach a
12 completed use tax return and use tax payment.

13 The individual income tax return instructions shall
14 include information explaining the taxes imposed under the Use
15 Tax Act and informing taxpayers how to file and pay their use
16 tax obligations, including specific information on how to file

1 and pay use tax at the same time as the individual income tax
2 return is filed.

3 This Section shall not apply to any amended return.

4 Section 10. The Use Tax Act is amended by changing Section
5 10 and by adding Section 10.5 as follows:

6 (35 ILCS 105/10) (from Ch. 120, par. 439.10)

7 Sec. 10. Except as to motor vehicles, aircraft, watercraft,
8 and trailers, and except as to cigarettes as defined in the
9 Cigarette Use Tax Act, when tangible personal property is
10 purchased from a retailer for use in this State by a purchaser
11 who did not pay the tax imposed by this Act to the retailer,
12 and who does not file returns with the Department as a retailer
13 under Section 9 of this Act, such purchaser (by the last day of
14 the month following the calendar month in which such purchaser
15 makes any payment upon the selling price of such property)
16 shall, except as provided in this Section, file a return with
17 the Department and pay the tax upon that portion of the selling
18 price so paid by the purchaser during the preceding calendar
19 month. When tangible personal property, including but not
20 limited to motor vehicles and aircraft, is purchased by a
21 lessor, under a lease for one year or longer, executed or in
22 effect at the time of purchase to an interstate carrier for
23 hire, who did not pay the tax imposed by this Act to the
24 retailer, such lessor (by the last day of the month following

1 the calendar month in which such property reverts to the use of
2 such lessor) shall file a return with the Department and pay
3 the tax upon the fair market value of such property on the date
4 of such reversion. However, in determining the fair market
5 value at the time of reversion, the fair market value of such
6 property shall not exceed the original purchase price of the
7 property that was paid by the lessor at the time of purchase.
8 Such return shall be filed on a form prescribed by the
9 Department and shall contain such information as the Department
10 may reasonably require. Such return and payment from the
11 purchaser shall be submitted to the Department sooner than the
12 last day of the month after the month in which the purchase is
13 made to the extent that that may be necessary in order to
14 secure the title to a motor vehicle or the certificate of
15 registration for an aircraft. However, except as to motor
16 vehicles and aircraft, and except as to cigarettes as defined
17 in the Cigarette Use Tax Act, if the purchaser's annual use tax
18 liability does not exceed \$600, the purchaser may file the
19 return on an annual basis on or before April 15th of the year
20 following the year use tax liability was incurred.

21 Beginning with taxable years ending on or after December
22 31, 2010, the Department shall print on its standard individual
23 income tax form a provision indicating that if the taxpayer
24 wishes to pay his or her use tax liability, he or she may check
25 a box on the return so indicating and attach a completed use
26 tax return and use tax payment. The individual income tax

1 return instructions shall include information explaining the
2 taxes imposed under this Act and informing taxpayers how to
3 file and pay their use tax liability, including specific
4 information on how to file and pay use tax at the same time as
5 the individual income tax return is filed.

6 If cigarettes, as defined in the Cigarette Use Tax Act, are
7 purchased from a retailer for use in this State by a purchaser
8 who did not pay the tax imposed by this Act to the retailer,
9 and who does not file returns with the Department as a retailer
10 under Section 9 of this Act, such purchaser must, within 30
11 days after acquiring the cigarettes, file a return with the
12 Department and pay the tax upon that portion of the selling
13 price so paid by the purchaser for the cigarettes.

14 In addition with respect to motor vehicles, aircraft,
15 watercraft, and trailers, a purchaser of such tangible personal
16 property for use in this State, who purchases such tangible
17 personal property from an out-of-state retailer, shall file
18 with the Department, upon a form to be prescribed and supplied
19 by the Department, a return for each such item of tangible
20 personal property purchased, except that if, in the same
21 transaction, (i) a purchaser of motor vehicles, aircraft,
22 watercraft, or trailers who is a retailer of motor vehicles,
23 aircraft, watercraft, or trailers purchases more than one motor
24 vehicle, aircraft, watercraft, or trailer for the purpose of
25 resale or (ii) a purchaser of motor vehicles, aircraft,
26 watercraft, or trailers purchases more than one motor vehicle,

1 aircraft, watercraft, or trailer for use as qualifying rolling
2 stock as provided in Section 3-55 of this Act, then the
3 purchaser may report the purchase of all motor vehicles,
4 aircraft, watercraft, or trailers involved in that transaction
5 to the Department on a single return prescribed by the
6 Department. Such return in the case of motor vehicles and
7 aircraft must show the name and address of the seller, the
8 name, address of purchaser, the amount of the selling price
9 including the amount allowed by the retailer for traded in
10 property, if any; the amount allowed by the retailer for the
11 traded-in tangible personal property, if any, to the extent to
12 which Section 2 of this Act allows an exemption for the value
13 of traded-in property; the balance payable after deducting such
14 trade-in allowance from the total selling price; the amount of
15 tax due from the purchaser with respect to such transaction;
16 the amount of tax collected from the purchaser by the retailer
17 on such transaction (or satisfactory evidence that such tax is
18 not due in that particular instance if that is claimed to be
19 the fact); the place and date of the sale, a sufficient
20 identification of the property sold, and such other information
21 as the Department may reasonably require.

22 Such return shall be filed not later than 30 days after
23 such motor vehicle or aircraft is brought into this State for
24 use.

25 For purposes of this Section, "watercraft" means a Class 2,
26 Class 3, or Class 4 watercraft as defined in Section 3-2 of the

1 Boat Registration and Safety Act, a personal watercraft, or any
2 boat equipped with an inboard motor.

3 The return and tax remittance or proof of exemption from
4 the tax that is imposed by this Act may be transmitted to the
5 Department by way of the State agency with which, or State
6 officer with whom, the tangible personal property must be
7 titled or registered (if titling or registration is required)
8 if the Department and such agency or State officer determine
9 that this procedure will expedite the processing of
10 applications for title or registration.

11 With each such return, the purchaser shall remit the proper
12 amount of tax due (or shall submit satisfactory evidence that
13 the sale is not taxable if that is the case), to the Department
14 or its agents, whereupon the Department shall issue, in the
15 purchaser's name, a tax receipt (or a certificate of exemption
16 if the Department is satisfied that the particular sale is tax
17 exempt) which such purchaser may submit to the agency with
18 which, or State officer with whom, he must title or register
19 the tangible personal property that is involved (if titling or
20 registration is required) in support of such purchaser's
21 application for an Illinois certificate or other evidence of
22 title or registration to such tangible personal property.

23 When a purchaser pays a tax imposed by this Act directly to
24 the Department, the Department (upon request therefor from such
25 purchaser) shall issue an appropriate receipt to such purchaser
26 showing that he has paid such tax to the Department. Such

1 receipt shall be sufficient to relieve the purchaser from
2 further liability for the tax to which such receipt may refer.

3 A user who is liable to pay use tax directly to the
4 Department only occasionally and not on a frequently recurring
5 basis, and who is not required to file returns with the
6 Department as a retailer under Section 9 of this Act, or under
7 the "Retailers' Occupation Tax Act", or as a registrant with
8 the Department under the "Service Occupation Tax Act" or the
9 "Service Use Tax Act", need not register with the Department.

10 However, if such a user has a frequently recurring direct use
11 tax liability to pay to the Department, such user shall be
12 required to register with the Department on forms prescribed by
13 the Department and to obtain and display a certificate of
14 registration from the Department. In that event, all of the
15 provisions of Section 9 of this Act concerning the filing of
16 regular monthly, quarterly or annual tax returns and all of the
17 provisions of Section 2a of the "Retailers' Occupation Tax Act"
18 concerning the requirements for registrants to post bond or
19 other security with the Department, as the provisions of such
20 sections now exist or may hereafter be amended, shall apply to
21 such users to the same extent as if such provisions were
22 included herein.

23 (Source: P.A. 96-520, eff. 8-14-09; revised 10-30-09.)

24 (35 ILCS 105/10.5 new)

25 Sec. 10.5. Use tax amnesty. The Department shall establish

1 an amnesty program for all taxpayers owing any tax imposed
2 under this Act for their purchases of tangible personal
3 property from a retailer for use in this State (eligible
4 taxes). The amnesty program shall be for a period from January
5 1, 2011 through October 15, 2011. The amnesty program shall
6 provide that, upon payment by a taxpayer of all eligible taxes
7 due from that taxpayer under this Act for any taxable period
8 ending after June 30, 2004 and prior to January 1, 2011, the
9 Department shall abate and not seek to collect any interest or
10 penalties that may be applicable and the Department shall not
11 seek civil or criminal prosecution for any taxpayer for these
12 taxes for the period of time for which amnesty has been granted
13 to the taxpayer. Failure to pay all eligible taxes due to the
14 State for a taxable period shall invalidate any amnesty granted
15 under this Section. Amnesty shall be granted only if all
16 amnesty conditions are satisfied by the taxpayer.

17 Amnesty shall not be granted to taxpayers who are a party
18 to any criminal investigation or to any civil or criminal
19 litigation that is pending in any circuit court or appellate
20 court or the Supreme Court of this State for nonpayment,
21 delinquency, or fraud in relation to eligible taxes under this
22 Act.

23 Voluntary payments made under this Section shall be made by
24 cash, check, guaranteed remittance, or ACH debit.

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.".